IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

**WRIT PETITION NO : 25261 of 2000**

Between:

N.Sunder, s/o Narasimhulu, aged 37 years, Occ: business,

R/o H.No.1-5-9/4, New Maruthinagar, Kothapet, Hyderabad.

**..... PETITIONER**

AND

1. The Commissioner of Proh. & Excise, Government of A.P.,

Office at M.J.Road, Hyderabad.

2. The Dy.Commissioner of Proh. & Excise, Mahabubnagar

Division, at Mahabubnagar.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to a writ of Certiorari calling for records of the impugned proceedings C.R.No.2558/2000/DPE/B2, dated 20.10.2000 passed by the 1st respondent in dismissing the statutory appeal filed by the petitioner against the confiscation order dated 18.12.1999 passed in C.R.No.B3/3743/97 as passed by the 2nd respondent confiscating the Ambassador car bearing No.ABD 9247 in Crime No.345/96-97 and same may be quashed consequently, declaring the action of the respondents in confiscating the above Ambassador car U/s.13 of the A.P.Prohibition Act, as illegal, unlawful and contrary to law and consequently, release the above vehicle to the petitioner.

**Counsel for the Petitioner: MR.M.DAMODAR REDDY**

**Counsel for the Respondents: GP FOR PROHIBITION & EXCISE**

**The Court made the following :**

**O R D E R:**

Heard the learned counsel for petitioner and also the learned Government Pleader appearing for respondents.

2. The petitioner herein, who is a owner of the vehicle bearing No.ABD 9247 filed this writ petition, *inter alia,* challenging the orders of the Appellate Authority dated 20.10.2000, rejecting the delay application in filing the appeal as against the orders of confiscation passed on 08.12.1999 by the second respondent herein, whereby the said vehicle was confiscated.

3. The case of the petitioner is that even though the petitioner has given number of grounds in his appeal pointing out the irregularities committed by the second respondent and also about his illness and suffering due to Typhoid fever, supported by a medical certificate, the Appellate Authority did not consider the same in proper perspective and rejected the same on the ground that the delay is not convincing and therefore rejected the appeal as time barred. According to the learned counsel for petitioner, there is delay of only 131 days in filing the said appeal.

4 . The learned Government Pleader appearing for respondents herein sought to contest the aforesaid contention on the ground that the Appellate Authority has rightly rejected the appeal having not satisfied with the reasons; therefore, it is not liable for any interference.

5. Having regard to the submissions made and also perusal of material available on record, it is seen that the present grievance of the petitioner is only against the order, refusing to condone delay in filing appeal, where, according to the petitioner, specific questions are involved that effect substantial rights. Though he has raised several grounds in the appeal, the same has to be considered on merits. The

petitioner has also filed certificate in support of his illness, however, the Appellate Authority i.e., Respondent No.1 herein rejected the same on the mere ground that it is not convincing. On a reading of the said order, it does not disclose any reasons or a finding as to the reasons given by the petitioner in support of the delay. On the face of it the order is in lacuna. Even otherwise, on being satisfied with the petitioner's reasons and the delay being not much, the lower Appellate Authority ought to have given opportunity to contest the matter on merits.

6. In the circumstances, the writ petition is allowed. Delay in filing the appeal is condoned. The lower Appellate Authority viz., first respondent shall dispose of the appeal on merits after giving opportunity to both sides. It is needless to mention that interim orders for release of the vehicle granted by this Court in W.P.M.P.No.32236 of 2000 dated 20th December, 2000 shall continue to remain in force till the disposal of the appeal.

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**B.PRAKASH RAO,J**

Dated 04th August,2004.

Bsb/Mrr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice of this Wednesday the 04th day of August, two thousand and four.

ASSISTANT REGISTRAR

To

1. The Commissioner of Proh. & Excise, Government of A.P.,

Office at M.J.Road, Hyderabad.

2. The Dy.Commissioner of Proh. & Excise, Mahabubnagar

Division, at Mahabubnagar.

3. To CCs to the Government Pleader for Prohibition & Excise, High

Court Buildings, Hyderabad (OUT).

4. Two CD copies.